

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 UNITED STATES OF AMERICA,

9 Plaintiff,

10 v.

11 BRADFORD MARSELAS JOHNSON
12 and ERIC WOODBERRY,

13 Defendants.

No. CR18-049RAJ

ORDER GRANTING MOTION
FOR EVIDENTIARY HEARING
REGARDING SHOWUP PROCEDURES

14 THIS MATTER has come before the Court upon Defendant Bradford Marselas
15 Johnson's Motion for Evidentiary Hearing Regarding Showup Procedures (Dkt. #69).
16 Defendant Eric Woodberry joined this motion (Dkt. #77). Having considered the motion,
17 the government's response, and the files and pleadings herein, the Court **GRANTS** the
18 motion for an evidentiary hearing.

19 The thrust of the defendant's motion is predicated upon how witnesses were able
20 to identify suspects who wore masks and hoodies during the course of the crime, but were
21 apparently unmasked and not wearing hoods when they were identified. The government
22 objects to the need for an evidentiary hearing, contending the defendants have not
23 demonstrated a sufficient threshold showing to warrant an evidentiary hearing, inferring
24 that the motion is merely a discovery ploy. The government then goes on to address the
issue of why suppression of the identification is not warranted.

1 The Court concludes that under the circumstances of the arrest the defendants are
2 entitled to an evidentiary hearing which will enable this Court to determine the facts and
3 whether the techniques or procedures used by law enforcement officers were so
4 impermissibly suggestive as to give rise to the very substantial likelihood of irreparable
misidentification prohibited by due process.

5 For these reasons, Defendant Johnson's Motion for Evidentiary Hearing
6 Regarding Showup Procedures (Dkt. #69) is **GRANTED**. The hearing shall commence
7 on April 22, 2019, at 9:00 a.m.

8 The Court will rule on the merits of the motion at the end of the evidentiary
hearing.

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10 DATED this 12th day of April, 2019.

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16 The Honorable Richard A. Jones
17 United States District Judge
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